



Gerard P. Fox
gfox@gerardfoxlaw.com

August 11, 2021

VIA ELECTRONIC MAIL

Honorable Mary Kay Vyskocil
United States District Court
Southern district of New York
500 Pearl Street, Room 2230
New York, NY 10007

Re: *Goureau et al. v. Lemonis et al.*, Case No.: 1-20-cv-04691-MKV

Honorable Judge Vyskocil,

This letter is in response to Michael Wexler's letter to you dated August 11, 2021, in connection with the above referenced matter entitled Nicolas Goureau ("Goureau") and Stephanie Menkin ("Menkin"), individually and derivatively on behalf of Gooberry Corp. (collectively "Plaintiffs") against Marcus Lemoins, ML Retail, LLC, Marcus Lemonis, LLC., and Machete Corporation ("Machete") (collectively "Defendants"). What Mr. Wexler does not share with the court is that 70 victim companies approached Gerard Fox Law and reported how they were victimized on *The Profit*. What ensued as a result was an eight-month investigation using investigators and a forensic fraud expert. Eventually, months ago, I reported to Comcast and NBCUniversal the facts related to what became 51 of the 70 companies that my firm now represents. Interviews were conducted and significant new information has come to light and been uncovered as a result of this ongoing investigation. As a result, my firm is working towards a global resolution, which we are hopeful will take place in the next two months. In fact, we are taking formal steps to reach such a result. All lead counsel agreed to stay all pending litigation, including in the present matter, between the parties that filed lawsuits prior to the new evidence uncovered by the investigation. Recently, however, Mr. Wexler refused to stay these two cases in the Southern District of New York and unfortunately, the court in the *Howard Nourieli, et al. v. Marcus Lemonis, et al.* case issued a ruling that makes an error, but also is based on evidence a year old and not anywhere near the full record. Mr. Wexler hopes to have this Court rush into a ruling on old evidence and not any of the newly discovered evidence and to scuttle the attempts at a global resolution.

Additionally, it should be noted that the case before this Court is based on fundamentally unique facts to the Plaintiffs and many of the underlying facts are different

from *Howard Nourieli, et al. v. Marcus Lemonis, et al.*, as is the case with all 51 of the victim companies we represent, so Mr. Wexler fails to point this material bit of information out as well.

Finally, Plaintiffs wrote a letter dated March 30, 2021, notifying the Court and defendants of the Delaware court's ruling and requesting leave to amend their complaint to include claims raised in *Nicolas Goureau, et al. v. Marcus Lemonis, et al.* No. 2020-0486-MTZ. Now, our firm on behalf of Plaintiffs—and the larger group of victim companies that have claims that will be brought if we do not reach a global resolution, ask this court to allow that process to be completed before considering a ruling. More importantly, counsel for Goureau and Menkin will be filing a motion for leave to amend and a proposed full amended complaint next week. As such, Plaintiffs respectfully request that the Court take no action until then, and to bring the Court in *Howard Nourieli, et al. v. Marcus Lemonis, et al.* up to speed as we are filing a Motion for Reconsideration in that case, sharing the voluminous new evidence we have uncovered.

We thank the Court for its time, but we felt the court needed the proper context of what is transpiring and why this one rogue lawyer who will not follow the agreement to stay all these cases pending the parties' efforts to achieve a global resolution is trying to hustle a ruling out of this court based on evidence that is only a fraction of a fraction of what is now at issue.

Respectfully submitted,



Gerard P. Fox

cc: Michael D. Wexler, Seyfarth Shaw LLP (via ECF & E-mail)
Jesse M. Coleman, Seyfarth Shaw LLP (via ECF)
Owen R. Wolfe, Seyfarth Shaw LLP (via ECF)
Jonathan L. Segal, Davis Wright Tremaine LLP (via ECF)
Samuel Bayard, Davis Wright Tremaine LLP (via ECF)
Marina Bogorad, Esq. (via E-mail)